

# LAWS AND REGULATIONS RELATING TO

## Licensure as a Professional Clinical Counselor



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**The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.**

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## Kentucky Revised Statutes

### **335.500 Definitions for KRS 335.500 to 335.599.**

As used in KRS 335.500 to 335.599, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Licensed Professional Counselors;
- (2) "Credential holder" means any person who is regulated by the board;
- (3) "Licensed professional clinical counselor" means a credential holder who has been determined by the board to have met all qualifications set forth in KRS 335.525(1) to engage in the independent practice of professional counseling;
- (4) "Licensed professional counselor associate" means a credential holder who has been determined by the board to have met all qualifications set forth in KRS 335.525(2) to engage in the practice of professional counseling under an approved clinical supervisor as authorized by the board;
- (5) "Practice of professional counseling" means professional counseling services that involve the application of mental health counseling and developmental principles, methods, and procedures, including assessment, evaluation, treatment planning, amelioration, and remediation of adjustment problems and emotional disorders, to assist individuals or groups to achieve more effective personal, social, educational, or career development and adjustment; and
- (6) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, daughter-in-law, grandparent, grandchild, stepparent, or stepchild.

### **335.505 Prohibition against unlicensed practice of professional counseling -- No limitation on activities of specified service providers.**

(1) No person shall engage in the practice of professional counseling or present in a way as to imply or would reasonably be deemed to imply licensure to practice professional counseling unless the person has first been issued a valid license by the board.

(2) Subsection (1) of this section shall not apply to any person who is licensed, certified, or registered under any other provisions of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, nurses, professional art therapists, marriage and family therapists, or students in accredited programs in those professions, and shall not restrict their practice, descriptions of services, or the manner in which they hold themselves out to the public.

(3) Subsection (1) of this section shall not be construed to alter, amend, or interfere with the practice of those who engage in employment counseling, job placement counseling, vocational rehabilitation counseling, victim counseling or advocacy, pastoral counseling based on any tenet of one's religious beliefs, or school counseling.

(4) Subsection (1) of this section shall not apply to the activities and services of a student intern or trainee in professional counseling who is pursuing a program of studies in counseling at an accredited institution of higher education, if these activities are performed under the supervision or direction of an approved supervisor and the activities are a part of the supervised program of study as reflected in an official transcript, and if the person is designated a professional counselor intern or student in training.

(5) Nothing in this section shall be construed to limit the activities of a sexual assault counselor, victim advocate, or crisis response team as provided in KRE 506, or a person certified under KRS Chapter 403 to provide court-ordered domestic violence offender treatment services or a person providing services to sexual offenders under KRS 197.400 to 197.440.

**335.510 Kentucky Board of Licensed Professional Counselors.**

(1) The Kentucky Board of Licensed Professional Counselors is created and shall consist of seven (7) members who shall reside in the Commonwealth and be appointed by the Governor. One (1) of the members shall be a citizen at large and the remaining six (6) members shall be licensed professional clinical counselors. The licensed professional clinical counselor members on the board shall have been licensed as professional clinical counselors in the Commonwealth for at least two (2) years preceding their appointments. The citizen at large member shall not be associated with or have a relative who is associated with the practice or business of professional counseling. Neither the citizen at large nor his relatives shall have a financial interest in the practice or business of professional counseling.

(2) All appointments and vacancies to the board shall be filled by the Governor. Appointments and vacancies of counselor members shall be filled by the Governor from a list of three (3) names for each position to be filled that is submitted by the Kentucky Mental Health Counseling Association. Vacancies shall be filled for the remainder of the unexpired terms and in the same manner as set out in this subsection.

(3) The length of a term of board appointment shall be four (4) years. A board member shall serve no more than two (2) consecutive terms.

(4) The board shall elect a chair from its membership, and a chair shall be elected annually but shall serve no more than two (2) consecutive one (1) year terms. Four (4) members of the board shall constitute a quorum.

(5) The board shall hold two (2) meetings annually to give examinations pursuant to KRS 335.515 and may hold additional meetings as the board deems necessary. The additional meetings may be held upon call of the chair or upon the written request of three (3) or more board members.

(6) The Governor shall remove a member from the board, for cause only.

(7) A member of the board who is a citizen at large shall be disqualified from his or her seat on the board if:

(a) He or she, a member of his or her household, or a relative becomes associated with or financially interested in the business of professional counseling;

(b) He or she, a member of his or her household, or a relative becomes, or is in training to become, a licensed professional clinical counselor; or

(c) He or she ceases to reside in the Commonwealth.

(8) A counselor member of the board shall be disqualified from his seat on the board if:

(a) He or she has been determined by the board or a court to have violated the code of professional ethics or practice standards established pursuant to KRS 335.500 to 335.599;

(b) He or she ceases to be a licensed professional clinical counselor; or

(c) He or she ceases to reside in the Commonwealth.

(9) Each board member shall receive one hundred dollars (\$100) per day for each day of service actually given in carrying out his duties under KRS 335.500 to 335.599, and shall also be reimbursed the necessary traveling, hotel, and contingent expenses incurred in attending the meetings of the board and in performing the duties of the board.

**335.515 Powers and duties of board.**

(1) The board shall administer and enforce the provisions of KRS 335.500 to 335.599 and shall evaluate the qualifications of applicants for licensure.

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 335.500 to 335.599.

(3) The board shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to carry out and enforce the provisions of KRS 335.500 to 335.599, including the establishment of fees.

(4) The board shall conduct hearings as necessary pursuant to KRS Chapter 13B and shall keep records and minutes necessary to carry out the function of KRS 335.500 to 335.599.

(5) The board shall issue credentials to qualified candidates.

(6) The board shall renew credentials subject to the provisions of KRS 335.535 and shall require ten (10) continuing education hours as a condition for renewal each year.

(7) The board may suspend or revoke credentials, impose supervisory or probationary conditions upon certificate holders, impose administrative disciplinary fines, issue written reprimands and admonishments, or perform any combination thereof.

(8) The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 335.505(1).

(9) The board may grant retired status or inactive status to a credential holder under conditions set out in administrative regulations promulgated by the board.

(10) The board may employ persons as necessary to carry on its work and shall define those persons' duties and fix their compensation.

(11) The board shall promulgate by administrative regulation a code of ethics for and standards of practice for all credential holders.

(12) The board may enter into reciprocal agreements with certified or licensed professional counseling boards.

#### **335.520 Disposition of fees and other moneys.**

(1) All fees and other moneys received by the board pursuant to the provisions of this chapter shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board. The compensation of the board's members and employees and all expenses incurred by the board shall be paid from the revolving fund.

(2) No part of this revolving fund shall revert to the general funds of the Commonwealth.

#### **335.525 Licensing requirements -- Fees.**

(1) The board shall issue a "professional clinical counselor" license to an applicant who:

(a) Has paid the application fee and the appropriate examination fee to the board;

(b) Is of good moral character;

(c) Has received a master's, specialist, or doctoral degree in counseling or a related field from a regionally accredited institution;

(d) Has completed a minimum of sixty (60) graduate semester hours in the following:

1. The helping relationship, including counseling theory and practice;

2. Human growth and development;

3. Lifestyle and career development;

4. Group dynamics, process, counseling, and consulting;

5. Assessment, appraisal, and testing of individuals;

6. Social and cultural foundations, including multicultural issues;

7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

8. Research and evaluation; and

9. Professional orientation and ethics;

(e) Has completed a minimum of four thousand (4,000) hours of experience in the practice of counseling, all of which must have been obtained since obtaining the master's degree and must be under approved supervision and shall include but not be limited to a minimum of one thousand six hundred (1,600) hours of direct counseling with individuals, couples, families, or groups and a minimum of one hundred (100) hours of individual, face-to-face clinical supervision with an approved supervisor. Each applicant is encouraged to include as part of the

total hours of experience a minimum of ten (10) hours of direct counseling with individuals in a jail or corrections setting. All applicants shall complete an organized practicum or internship consisting of at least four hundred (400) hours; and

(f) Has achieved passing scores on all portions of the examinations required by the board.

(2) The board may issue a "professional counselor associate" license to an applicant who:

(a) Has completed all requirements under paragraphs (a) to (d) of subsection (1) of this section;

(b) Has not met the requirements of paragraphs (e) or (f) of subsection (1) of this section; and

(c) Has obtained a board-approved supervisor of record.

(3) (a) On July 15, 2002, a previously certified professional counselor in Kentucky shall be entitled to use the term "licensed professional clinical counselor" and shall be issued a professional clinical counselor license upon annual renewal.

(b) An applicant who has been issued a professional clinical counselor license shall be entitled to use the title "licensed professional clinical counselor."

(4) (a) On July 15, 2002, a previously certified professional counselor associate shall be entitled to use the term "licensed professional counselor associate" and shall be issued a professional counselor associate license upon annual renewal.

(b) An applicant who has been issued a professional counselor associate license shall be entitled to use the title "licensed professional counselor associate."

(5) (a) A licensed professional counselor associate shall maintain ongoing supervision as approved by the board.

(b) A licensed professional counselor associate may apply for the credential of licensed professional clinical counselor upon completion of the hours of experience and passing the examinations required under paragraphs (e) and (f) of subsection (1) of this section.

(6) The application fee for licensure and the examination fee shall be established pursuant to administrative regulation promulgated by the board.

### **335.527 Licensing reciprocity requirements -- Exemptions.**

(1) The board shall grant the appropriate credential under KRS 335.525 to an applicant for endorsement who:

(a) Has received a master's, specialist, or doctoral degree in counseling or a related field from a regionally accredited institution with a minimum of sixty (60) hours of graduate coursework to include the following:

1. The helping relationship, including counseling theory and practice;

2. Human growth and development;

3. Lifestyle and career development;

4. Group dynamics, process, counseling, and consulting;

5. Assessment, appraisal, and testing of individuals;

6. Social and cultural foundations, including multicultural issues;

7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

8. Research and evaluation; and

9. Professional orientation and ethics;

(b) Holds an active valid license or certificate from another state to practice as a professional counselor;

(c) Is in good standing with the certifying or licensing board of that state;

(d) Is of good moral character;

(e) Has paid the application fee to the board; and

(f) Has provided the board with evidence of a minimum of five (5) years' experience as a certified or licensed professional counselor.

(2) The applicant shall be exempt from:

(a) The required hours of supervised experience in the practice of counseling set out in KRS 335.525(1)(e); and

(b) The examination requirement set out in KRS 335.525(1)(f).

**335.535 Renewal of credentials -- Fees -- Reinstatement.**

(1) Each credential holder shall pay to the board an annual renewal fee on or before the renewal date established in administrative regulations promulgated by the board. All credentials not renewed by the renewal date each year shall expire because they were not timely renewed;

(2) A person who fails to renew his or her credential on or before the renewal date shall be given a sixty (60) day grace period. During the grace period, the credential holder may continue to practice and may renew the credential upon payment of the renewal fee and a late fee.

(3) All credentials not renewed within sixty (60) days after the renewal date shall terminate. Upon termination, the credential holder shall not be eligible to use the credential in the Commonwealth.

(4) After the sixty (60) day grace period, individuals with terminated credentials may reinstate their credential upon payment of the renewal fee and a reinstatement fee.

(5) A suspended credential shall be renewed as provided in this section; however, the credential holder shall not use the credential until the suspension has ended or has been removed by the board.

(6) A revoked credential may not be renewed. However, the credential holder shall pay the reinstatement and renewal fees as set forth in this section before the credential is reinstated.

(7) A person who fails to reinstate his or her credential within three (3) years after its termination may not have it renewed, restored, reissued, or reinstated. This person may apply for and obtain a new credential by meeting the current requirements of KRS 335.525.

(8) The board may require that a person applying for renewal or reinstatement of his or her credential show proof of having completed continuing education requirements.

**335.540 Standards of conduct -- Disciplinary sanctions -- Reinstatement.**

(1) The board may refuse to issue a credential, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, or issue a written reprimand or admonishment if the credential holder has:

(a) Committed a dishonest or corrupt act. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the credential holder or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining or reinstating a credential;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the activities he has undertaken within his or her practice;

(e) Violated any state statute or administrative regulation promulgated pursuant to KRS 335.500 to 335.599;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethics; or

(h) Violated any applicable provisions of federal or state law.

(2) Any person whose credential has been revoked for at least five (5) or more years may petition the board for reinstatement. The board shall investigate the petition and may reinstate the credential upon a finding that the individual has complied with the terms prescribed by the board and is able to competently engage in professional practice.

(3) The board may issue a written admonishment to the credential holder if the board determines based on the evidence, that a violation that is not serious has occurred. A copy of the

written admonishment shall be placed in the permanent file of the credential holder. The credential holder may respond in writing to the admonishment within thirty (30) days of its receipt and may have it placed in his permanent credential file.

Alternatively, the credential holder may file a request for a hearing with the board within thirty (30) days of the admonishment. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the credential holder.

(5) The board may consider, modify, or reverse its probation, suspensions, or other disciplinary action.

**335.545 Hearing before sanctions.**

Before suspending, revoking, imposing probationary or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or performing any combination of these actions regarding any credential issued pursuant to KRS 335.500 to 335.599, the board shall set the matter for hearing pursuant to the provisions of KRS Chapter 13B. After denying an application under KRS 335.500 to 335.599, or issuing a written admonishment, the board shall grant a hearing to the denied applicant pursuant to the provisions of KRS Chapter 13B.

**335.550 Appeal of disciplinary action.**

Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.

**335.599 Penalties.**

Any person who violates or aids in the violation of any of the provisions of KRS 335.500 to 335.599 shall be guilty of a misdemeanor and upon conviction shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or sentenced to jail for not less than ten (10) nor more than ninety (90) days, or both.



# Kentucky Administrative Regulations

## **201 KAR 36:020. Fees - renewal date.**

RELATES TO: KRS 335.535(1), (2), (4)

STATUTORY AUTHORITY: KRS 335.515(3), 335.525(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3) and 335.525(2) require the board to promulgate administrative regulations relating to the establishment of fees. This administrative regulation establishes the application, renewal, and reinstatement fees for a professional counselor and a professional counselor associate and the date a licensure must be renewed.

Section 1. Application Fee. (1) The application fee for licensure as a professional counselor shall be \$150.

(2) If the application is denied, \$125 of the application fee shall be refunded.

(3) The application fee for licensure as a professional counselor associate shall be fifty (50) dollars.

(4) If an applicant for a professional counselor associate is denied, twenty-five (25) dollars of the application fee shall be refunded.

Section 2. Renewal Fees and Penalties. (1)(a) The annual renewal fee for licensure as a professional counselor shall be \$150;

(b) The annual renewal fee for licensure as a professional counselor associate shall be fifty (50) dollars.

(2) The late renewal fee for late renewal during the sixty (60) day grace period shall be:

(a) Twenty-five (25) dollars for licensure as a professional counselor; and

(b) Ten (10) dollars for licensure as a professional counselor associate.

(3) The reinstatement fee for licensure renewal after the end of the sixty (60) day grace period shall be:

(a) Fifty (50) dollars for licensure as a professional counselor; and

(b) Twenty (20) dollars for licensure as a professional counselor associate.

(4) Renewal and reinstatement fees shall not be refundable.

Section 3. Renewal Date. (1) The renewal date for licensure shall be October 31.

(2) The renewal fee for the first renewal shall be waived for a person receiving licensure within 120 days prior to the renewal date.

## **201 KAR 36:030. Continuing education requirements.**

RELATES TO: KRS 335.535(8)

STATUTORY AUTHORITY: KRS 335.515(3),(6), 335.535(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3), (6) and 335.535(8) require the board to promulgate an administrative regulation requiring a licensee to complete continuing education requirements as a condition of renewal of his licensee. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions.

(1) "Academic courses offered by an accredited postsecondary institution" means:

(a) A professional counseling course, designated by a professional counseling title or content; or

(b) An academic course, relevant to professional counseling.

(2) "Approved" means recognized by the Kentucky Board of Licensed Professional Counselors.

(3) "Continuing education hour" means fifty (50) clock minutes of participating in continuing educational experiences.

- (4) "Program" means an organized learning experience:
  - (a) Planned and evaluated to meet behavioral objectives; and
  - (b) Presented in one (1) session or a series.
- (5) "Provider" means an organization approved by the Kentucky Board of Licensed Professional Counselors for providing continuing education programs.
- (6) "Relevant" means having content applicable to the practice of professional counseling as determined by the board.

Section 2. Accrual of Continuing Education Hours. (1) A minimum of ten (10) continuing education hours shall be accrued by each person holding a license during the annual period for renewal.

(2) All continuing education hours shall be in or related to the field of professional counseling.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of the licensee's practice of professional counseling. They may be earned by completing any of the following educational activities:

(1) Programs not requiring board review and approval. An educational program from any of the following providers shall be deemed to be relevant to the practice of professional counseling and shall be approved without further review by the board if it is:

- (a) Sponsored or approved by:
  - 1. The American Counseling Association, or any of its affiliated branches or divisions;
  - 2. The Kentucky Counseling Association, or any of its affiliated chapters or divisions;
  - 3. The National Association of Social Workers or any of its affiliated state chapters;
  - 4. The American Association of Marriage and Family Therapy or any of its affiliated state chapters;
  - 5. The American School Counselor Association or any of its affiliated state chapters;
  - 6. The American Psychological Association, or any of its affiliated state chapters or divisions;
  - 7. The divisions of the Department of Mental Health and Mental Retardation of the Kentucky Cabinet for Health Services; or
  - 8. The National Board for Certified Counselors; or

(b) An academic course offered by an accredited post-secondary institution directly related to professional counseling or counseling psychology;

(2) Programs requiring board review and approval. A program from any of the following sources shall be reviewed and determined if it is relevant and therefore subsequently approved by the board:

(a) A program, including a home study course and in-service training provided by another organization, educational institution, or service provider approved by the board;

(b) A program or academic course presented by the licensee. A presenter of relevant programs or academic courses may earn full continuing education credit for each contact hour of instruction, except the earned credit shall not exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course; or

(c) Authoring an article in a relevant, professionally recognized or juried publication. Credit shall not be granted for an article unless it was published within the one (1) year period immediately preceding the renewal date and a licensee shall not earn more than one-half (1/2) of the continuing education hours required for renewal. More than one (1) publication shall not be counted during a renewal period.

(3) A general education course, either elective or designated to meet degree requirements, shall not be acceptable. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

Section 4. Procedures for Approval of Continuing Education Programs. A course, which has not been preapproved by the board, may be used for continuing education if approval is

secured from the board for the course. In order for the board to adequately review these programs, the following information shall be submitted:

- (1) A published course or similar description;
- (2) Names and qualifications of the instructors;
- (3) A copy of the program agenda indicating hours of education, coffee and lunch breaks;
- (4) Number of continuing education hours requested;
- (5) Official certificate of completion or college transcript from the sponsoring agency or college; and
- (6) Application to the board for continuing education credits approval; and
- (7) If a provider seeking approval for a continuing education course, an application review fee of twenty (20) dollars.

Section 5. Procedures for Preapproval of Continuing Education Sponsors and Programs.

(1) Sponsor approval. Any entity seeking to obtain approval:

(a) Of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 4 of this administrative regulation.

(b) As a prior-authorized continuing education provider under Section 3(1) of this administrative regulation, shall satisfy the board that the entity seeking this status:

1. Consistently offers programs which meet or exceed all the requirements set forth in Section 2(2) of this administrative regulation; and

2. Does not exclude a licensee from its programs.

(2) A continuing education activity shall be qualified for approval if the board determines the activity being presented:

(a) Is an organized program of learning;

(b) Pertains to subject matters, which integrally relate to the practice of professional counseling;

(c) Contributes to the professional competency of the licensee; and

(d) Is conducted by individuals who have educational training or experience acceptable to the board.

Section 6. Responsibilities and Reporting Requirements of a Licensee. (1) During the licensure renewal period, up to fifteen (15) percent of all licensees shall be selected at random by the board and required to furnish documentation of the completion of the appropriate number of continuing education hours. Verification of continuing education hours shall not otherwise be reported to the board.

(2) A licensee shall:

(a) Be responsible for obtaining required continuing education hours;

(b) Identify his own continuing education needs and seek activities that meets those needs;

(c) Seek ways to integrate new knowledge, skills and attitudes;

(d) Select approved activities by which to earn continuing education hours;

(e) Submit to the board, if applicable, a request for approval for continuing education activities not approved as required in Section 3(2) of this administrative regulation;

(f) At the time of renewal, list the continuing education hours obtained during that licensure renewal period;

(g) Document attendance, participation in, and successful completion of continuing education activity for a period of one (1) year from the date of the renewal; and

(h) Maintain records of continuing education hours;

(3) The following items may be used to document continuing education activity:

(a) Transcript;

(b) Certificate;

(c) Affidavit signed by the instructor; or

(d) Receipt for the fee paid to the sponsor;

(4) Comply with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 335.340(1)(b) and shall result in:

- (a) Refusal to renew licensure;
- (b) Suspension of licensure; or
- (c) Revocation of licensure.

(5) Documentation sent to the board prior to renewal shall be returned to the licensee by regular mail.

Section 7. Responsibilities and Reporting Requirements of Providers and Sponsors. (1) A provider of continuing education not requiring board approval shall be responsible for providing documentation, as established in Section 5(4) of this administrative regulation, directly to the licensee.

(2) A sponsor of continuing education requiring board approval shall be responsible for submitting a course offering to the board for review and approval before listing or advertising that offering as approved by the board.

Section 8. Board to Approve Continuing Education Hours; Appeal of Denial. (1) If an application for approval of continuing education hours is denied, in whole or part, the licensee shall have the right to appeal the board's decision.

(2) An appeal shall be:

- (a) In writing;
- (b) Received by the board within thirty (30) days after the date of the decision denying approval of continuing education hours; and
- (c) Conducted in accordance with KRS Chapter 13B.

Section 9. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

- (a) Medical disability of the licensee;
- (b) Illness of the licensee or an immediate family member; and
- (c) Death or serious injury of an immediate family member.

(2) A written request for waiver or extension of time involving medical disability or illness shall be:

- (a) Submitted by the person holding a license; and
- (b) Accompanied by a verifying document signed by a licensed physician.

(3) A waiver or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding a license shall reapply for the waiver or extension.

Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Licensed. (1) A person requesting reinstatement or reactivation of a license shall submit:

(a) Evidence of ten (10) hours of continuing education within the twelve (12) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board; or

(b) Upon request by the applicant, the board may permit the applicant to resume practice, with the provision that he shall obtain the ten (10) hours continuing education within three (3) months of the date on which the applicant is approved to resume practice.

(2) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section.

**201 KAR 36:040. Code of ethics.**

RELATES TO: KRS 335.540(1)(g)

STATUTORY AUTHORITY: KRS 335.515(3), (7), (11)

NECESSITY AND FUNCTION: KRS 335.515(11) requires the board to promulgate a code of ethics for licensed professional counselors and licensed professional counselor associates. This administrative regulation establishes the required code of ethics.

Section 1. Definitions. (1) "Client" means:

(a) An individual, family, or group for whom the licensee provides services within the context of the licensee's practice of professional counseling;

(b) A corporate entity or other organization if the licensee provides a service of benefit directly to the corporate entity or organization; or

(c) A legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult.

(2) "Dual relationship" means a social, business, or personal relationship between a licensee and a client that coexists with the professional-client relationship between the licensee and the client.

Section 2. Responsibility to Clients. (1) A professional counselor shall:

(a) Advance and protect the welfare of his client;

(b) Respect the rights of a person seeking his assistance; and

(c) Make reasonable efforts to ensure that his services are used appropriately.

(2) A professional counselor shall not:

(a) Discriminate against or refuse professional service to anyone on the basis of race, gender, religion, or national origin;

(b) Exploit the trust and dependency of a client;

(c) Engage in a dual relationship with a client that might:

1. Impair professional judgment;

2. Incur a risk of exploitation of the client; or

3. Otherwise violate a provision of this administrative regulation.

(d) If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, a professional counselor shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the client does not occur.

(e) Engage in a sexual relationship with a current client or with a former client for two (2) years following the termination of counseling;

(f) Use his professional relationship with a client to further his own interests;

(g) Continue therapeutic relationships unless it is reasonably clear that the client is benefiting from the relationship;

(h) Fail to assist a person in obtaining other therapeutic services if the professional counselor is unable or unwilling, for appropriate reasons, to provide professional help;

(i) Abandon or neglect a client in treatment without making reasonable arrangements for the continuation of treatment;

(j) Videotape, record, or permit third-party observation of counseling sessions without having first obtained written informed consent from the client;

(k) Engage in sexual or other harassment or exploitation of his client, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in investigations and ethical proceedings; or

(l) Diagnose, treat, or advise on problems outside the recognized boundaries of his competence.

Section 3. Confidentiality. (1) A professional counselor shall respect and guard the confidences of each individual client.

(2) Professional counselors shall not disclose a client confidence except:

(a) Pursuant to KRS 202A.400, 620.030, or 645.270 or as otherwise mandated, or permitted by law.

(b) To prevent a clear and immediate danger to a person;

(c) During the course of a civil, criminal, or disciplinary action arising from the therapy, at which the professional counselor is a defendant; or

(d) In accordance with the terms of a written waiver. If more than one (1) person in a family receives counseling, a professional counselor shall not disclose information from a particular family member unless he has obtained a waiver from that individual family member. If the family member is a minor, a parent may provide a waiver.

(3) A professional counselor may use client or clinical materials in teaching, writing, and public presentations if:

(a) A written waiver has been obtained in accordance with subsection (2)(d) of this section; or

(b) Appropriate steps have been taken to protect client identity and confidentiality.

(4) A professional counselor shall store or dispose of client records so as to maintain confidentiality.

Section 4. Professional Competence and Integrity. A professional counselor shall maintain standards of professional competence and integrity and shall be subject to disciplinary action in accordance with KRS 335.540:

(1)(a) Upon conviction of a felony, or a misdemeanor related to his practice as a professional counselor; and

(b) Conviction shall include adjudication based on:

1. A plea of no contest or an "Alford Plea"; or

2. The suspension or deferral of a sentence.

(2) If his license or certificate is subject to disciplinary action by another state's regulatory agency that the board determines violates applicable Kentucky state law or administrative regulation;

(3) Upon a showing of impairment due to mental incapacity or the abuse of alcohol or other substances which negatively impact the practice of professional counseling;

(4) If he misrepresented or concealed a material fact in obtaining a license, renewing a certificate, or reinstating a license;

(5) If he has refused to comply with an order issued by the board; or

(6) He has failed to cooperate with the board by not:

(a) Furnishing in writing a complete explanation to a complaint filed with the board;

(b) Appearing before the board at the time and place designated; or

(c) Properly responding to subpoenas issued by the board.

Section 5. Responsibility to His Student or Supervisee. A professional counselor shall:

(1) Be aware of his influential position with respect to a student or supervisee;

(2) Avoid exploiting the trust and dependency of a student or supervisee;

(3) Try to avoid a social, business, personal, or other dual relationship that could:

(a) Impair professional judgment; and

(b) Increase the risk of exploitation;

(4) Take appropriate precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;

(5) Not provide counseling to a:

(a) Student;

(b) Employee; or

(c) Supervisee;

(6) Not engage in sexual intimacy or contact with a:

(a) Student; or

(b) Supervisee;

(7) Not permit a student or supervisee to perform or represent himself as competent to perform a professional service beyond his level of:

- (a) Training;
- (b) Experience; or
- (c) Competence; and

(8) Not disclose the confidence of a student or supervisee unless:

(a) Pursuant to KRS 202A.400, 620.030, or 645.270 or as otherwise permitted or mandated by law;

(b) It is necessary to prevent a clear and immediate danger to a person;

(c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the professional counselor is a defendant;

(d) In an educational or training setting, of which there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee; or

(e) In accordance with the terms of a written informed consent agreement.

Section 6. Financial Arrangements. A professional counselor shall:

(1) Not charge an excessive fee for service;

(2) Disclose his fees to a client and supervisee at the beginning of service;

(3) Make financial arrangements with a patient, third-party payor, or supervisee that:

(a) Are reasonably understandable; and

(b) Conform to accepted professional practices;

(4) Not offer or accept payment for a referral; and

(5) Represent facts truthfully to a client, third-party payor, or supervisee regarding services rendered.

Section 7. Advertising. (1) A professional counselor shall:

(a) Accurately represent education, training, and experience relevant to the practice of professional counseling; and

(b) Not use professional identification that includes a statement or claim that is false, fraudulent, misleading, or deceptive, including the following:

1. A business card;

2. An office sign;

3. Letterhead; and

4. Telephone or association directory listing.

(2) A statement shall be considered false, fraudulent, misleading, or deceptive if it:

(a) Contains a material misrepresentation of fact;

(b) Is intended to or likely to create an unjustified expectation; or

(c) Deletes a material fact or information.

Section 8. Referral and Termination. (1) A licensee shall make a timely and appropriate referral of a client if:

(a) The licensee is unable to provide the work or service; or

(b) The client's need exceeds the competency of the licensee.

(2) A licensee shall terminate a professional counseling service if a client:

(a) Has attained his stated goal or objective; or

(b) Fails to benefit from the counseling service.

(3) A licensee shall communicate the referral or the termination of counseling service to a client.

(4) A licensee shall not terminate counseling service or refer a client for the purpose of entering into a personal relationship with the client, including:

(a) A sexual, romantic relationship;

(b) A financial or business relationship; or

(c) Other activity that might serve a personal interest of the licensee.

**201 KAR 36:050. Complaint management process.**

RELATES TO: KRS 335.540, 335.545

STATUTORY AUTHORITY: KRS 335.515(3), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3) requires the board to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS 335.500 to 335.599. This administrative regulation establishes the procedures for filing, investigating, and addressing a complaint filed against a professional counselor.

Section 1. Definitions. (1) "Chairman" means the chairman or vice-chairman of the board.

(2) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (4) of this section, issued by the board alleging a violation of a specified provision of KRS 335.500 to 335.599; the administrative regulations promulgated thereunder; or any other state or federal statute or regulation.

(3) "Complaint" means any written allegation of misconduct by a credentialed individual or other person which might constitute a violation of KRS 335.500 to 335.599, the administrative regulations promulgated thereunder, or any other state or federal statute or regulation.

(4) "Complaint screening committee" means a committee consisting of three (3) persons appointed by the chairman of the board to review complaints, investigative reports, and to participate in informal proceedings to resolve a formal complaint. The executive director of the board or another staff member may be appointed to serve on this committee.

(5) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a licensed individual or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.

(6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(7) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

Section 2. Receipt of Complaints. (1) A complaint:

(a) May be submitted by an:

1. Individual;
2. Organization; or
3. Entity.

(b) Shall be:

1. In writing; and
2. Signed by the person offering the complaint.

(c) May be filed by the board based upon information in its possession.

(2) Upon receipt of a complaint:

(a) A copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(b) Upon receipt of the written response of the individual named in the complaint, a copy of his response shall be sent to the complainant. The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the complaint screening committee shall consider the individual's response, complainant's reply to the response, and any other relevant material available and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the board determines before formal investigation that a complaint is without merit, it shall:

(a) Dismiss the complaint; and



- (b) Notify the complainant and respondent of the board's decision.
- (3) If the board determines that a complaint warrants a formal investigation, it shall:
  - (a) Authorize an investigation into the matter; and
  - (b) Order a report to be made to the complaint screening committee at the earliest opportunity.

Section 4. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint. The committee shall review the investigative report and make a recommendation to the board. The board shall determine whether there has been a prima facie violation of KRS 335.500 to 335.599 or the administrative regulations promulgated thereunder and a complaint should be filed.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

- (a) Dismiss the complaint or take action pursuant to KRS 335.540(3); and
- (b) Notify the complainant and respondent of the board's decision.
- (3) If the board determines that a complaint warrants the issuance of a formal complaint against a respondent, the complaint screening committee shall prepare a formal complaint which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chairman and served upon the individual as required by KRS Chapter 13B.

(4) If the board determines that a person may be in violation, it shall:

- (a) Order the individual to cease and desist from further violations of KRS 335.505;
- (b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 335.505 with a request that appropriate action be taken under KRS 335.599; or
- (c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 335.505.

Section 5. Settlement by Informal Proceedings. (1) The board, through counsel and the complaint screening committee, may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairman.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 6. Notice and Service Process. A notice required by KRS 335.500 to 335.599 or this administrative regulation shall be issued pursuant to KRS Chapter 13B.

Section 7. Notification. The board shall make public:

- 1) Its final order in a disciplinary action under KRS 335.540 with the exception of a written admonishment issued pursuant to KRS 335.540(3); and
- (2) An action to restrain or enjoin a violation of KRS 335.505.

#### **201 KAR 36:060. Qualifying experience under supervision.**

RELATES TO: KRS 335.500(4), 335.505(4), 335.525(1)(e)

STATUTORY AUTHORITY: KRS 335.515(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.505(4) allows a student intern or trainee in professional counseling to use the title of "professional counselor intern" or "student in training" if his activities are performed under the supervision or direction of an approved supervisor and the activities are a part of a supervised program of study. KRS 335.525(1)(e) provides that an applicant for a professional counselor license must have acquired 4000 hours of experience in the practice of counseling under the general supervision of an approved supervisor. This administrative regulation establishes the requirements relating to supervision and the requirements for experience under supervision.

Section 1. Definitions. (1) "Practice of counseling" means professional counseling services within the scope of Section 2 of this administrative regulation and which involve the application of mental health and development principals, methods or procedures, including assessment, evaluation, diagnosis, and treatment of emotional disorders or mental illnesses, to assist individuals to achieve more effective personal, social, educational, or career development and adjustment.

(2) "Supervision" means the educational process of utilizing a partnership between a supervisor and a supervisee aimed at enhancing the professional development of the supervisee in providing professional counseling services to meet the requirements of KRS 335.525(1)(e).

(3) "Supervisor" means a member of a mental health or behavioral-services profession listed in Section 3(1) of this administrative regulation who controls, oversees, guides, and takes responsibility for the professional clinical counseling practice of a supervisee in accordance with this administrative regulation.

(4) "Supervisee" means a licensed professional counselor associate who works with clients under supervision.

Section 2. Requirements for the Practice of Professional Counseling. (1) The practice of professional counseling shall be based on knowledge of interpersonal, cognitive, cognitive behavioral, psychodynamics, human relations, crisis intervention, psychopathology, group dynamics, and effective methods and strategies necessary to help the client achieve mental, vocational, emotional, physical, social, moral, and spiritual development and adjustment throughout the client's life span.

(2) A practitioner of professional counseling shall possess and utilize numerous skills, including skills necessary to apply professional counseling services relative to the following areas:

- (a) The helping relationship, including counseling theory and practice;
- (b) Human growth and development;
- (c) Lifestyle and career development;
- (d) Group dynamics, process, counseling, and consulting;
- (e) Assessment, appraisal, and testing of individuals;
- (f) Social and cultural foundation, including multicultural issues;
- (g) Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
- (h) Research and evaluation; and
- (i) Professional orientation and ethics.

Section 3. Supervision. (1) A supervisor shall be properly credentialed under Kentucky law as a member of one (1) of the following professions:

- (a) A licensed professional clinical counselor;
- (b) A licensed psychologist or a certified psychologist with autonomous functioning;
- (c) A licensed clinical social worker;
- (d) A licensed psychiatrist;
- (e) A nurse with a master's degree and psychiatric certification; or
- (f) A licensed marriage and family therapist.

(2) The supervisor shall:

(a) Provide supervision to a person obtaining the experience required under KRS 335.525(1)(e);

(b) Not have:

1. An unresolved citation filed against him by the board that licenses or certifies that profession;

2. A suspended or probated license or certificate;

3. An order from the board under which he is licensed or certified prohibiting him from providing supervision; or

4. A previous or existing dual relationship or other personal relationship with a supervisee; and

(c) Have been in the practice of his or her profession for two (2) years following licensure or certification in that profession.

(3) A supervisor of record shall assume responsibility for the practice of the supervisee. A supervisor shall not serve as a supervisor of record for more than six (6) persons obtaining experience for certification or licensure at the same time.

Section 4. Supervisory Agreement. A supervisee shall enter into a supervisory agreement with an approved supervisor. The supervisory agreement required by this section shall contain:

(1) The name and address of the supervisee.

(2) The name, address, license or certification number, and number of years of practice of the supervisor of record.

(3) The name, address, license or certification number, and number of years of practice of other supervisors.

(4) The agency, institution, or organization where the experience will be received.

(5) A detailed description of the nature of the practice including the type of:

(a) Clients which shall be seen;

(b) Therapies and treatment modalities which shall be used including the prospective length of treatment; and

(c) Problems which shall be treated.

(6) The nature, duration, and frequency of the supervision, including the:

(a) Number of hours of supervision per week;

(b) Number of hours of individual supervision;

(c) Methodology for transmission of case information; and

(d) Number of hours of face-to-face supervision which:

1. Meet the requirements of KRS 335.525(1)(e); and

2. Occur a minimum of three (3) times per month and one (1) hour per meeting.

(7) The conditions or procedures for termination of the supervision.

(8) A statement that:

(a) The supervisor of record understands that he shall be held accountable to the board for the care given to the supervisee's clients; and

(b) The supervisor of record and other supervisors meet the criteria established in Section 3(1) and (2) of this administrative regulation.

(9) The supervisory agreement shall be signed by the supervisor.

(10) If a supervisee changes his or her supervisor of record as identified in the supervisory agreement, the supervisee shall submit a new supervisory agreement which sets forth the information required by this section and which identifies the new supervisor of record.

Section 5. Experience Under Supervision. Experience under supervision shall consist of:

(1) Direct responsibility for a specific individual or group of clients; and

(2) Broad exposure and opportunity for skill enhancement with a variety of developmental issues, dysfunctions, diagnoses, acuity levels and population groups.

Section 6. Supervision Requirements. (1) Supervision shall relate specifically to the qualifying experience and shall focus on:

(a) The appropriate diagnosis of a client problem leading to proficiency in applying professionally recognized clinical nomenclature;

(b) The development and modification of the treatment plan;

(c) The development of treatment skills suitable to each phase of the therapeutic process;

(d) Ethical problems in the practice of professional counseling; and

(e) The development and use of the professional self in the therapeutic process.

(2) A supervisee shall not continue to practice professional counseling if the conditions for supervision set forth in the supervisory agreement required by Section 4 of this administrative regulation are not followed.

(3) If the terms of the supervisory agreement are not being met by the supervisee, the supervisor shall immediately notify this board in writing.

Section 7. Evaluation by Board. The period of supervised experience required by KRS 335.525(1)(e) shall be evaluated by the board according to one (1) of the following methods:

(1) A candidate who seeks to obtain experience in the Commonwealth of Kentucky shall submit the supervisory agreement required by Section 4 of this administrative regulation for the experience prior to beginning to accrue the required experience.

(2) A candidate who obtained his experience in another state shall submit his application along with appropriate documentation of his hours of supervision. The documentation shall also:

(a) Provide information that verifies that the requirements for the license or certificate of the supervisor from the state in which the license or certificate was held are substantially equivalent to the requirements for that license or certificate in Kentucky; and

(b) Provide information that verifies that the supervisor is in good standing with the certifying or licensing state.

**201 KAR 36:070. Education requirements.**

RELATES TO: KRS 335.525(1)(c), (d)

STATUTORY AUTHORITY: KRS 335.515(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.525(1)(c) requires that applicants for licensure shall have received a master's or doctoral degree in counseling or a related field from a regionally-accredited institution. KRS 335.525(1)(d) requires that applicants for licensure shall have sixty (60) graduate semester hours in specified areas. This administrative regulation establishes the educational requirements for licensure.

Section 1. (1) An applicant shall be deemed to have a degree in counseling if the applicant has completed an academic program of study where the name of the program or the major field of study contains the word "counseling".

(2) An applicant shall be deemed to have a degree in a related field if the applicant has completed an academic program of study that includes an organized sequence of graduate coursework in a minimum of five (5) of the nine (9) content areas established in KRS 335.525(1)(d).

(3) Degrees and graduate credit hours required under KRS 335.125(1)(d) shall be from a regionally-accredited institution.

(4) An institution shall be deemed to be a regionally-accredited institution if the institution of higher learning was accredited, at the time the degree was conferred, by a regional accrediting body recognized by the:

(a) U.S. Department of Education;

(b) Council on Postsecondary Accreditation; or

(c) Council on Postsecondary Education.

